

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:

JUDITH DARLENE SNOW,

DEBTOR.

**Case No.: BK-18-14846-JDL
Chapter 13**

RESPONSE TO MOTIONS IN LIMINE TO EXCLUDE UNDISCLOSED WITNESSES

Comes now the secured creditor, QUICKEN LOANS INC., by their attorney, Matthew J. Hudspeth, and responds to DEBTOR'S MOTIONS IN LIMINE TO EXCLUDE UNDISCLOSED WITNESSES (Doc. 24 and Doc. 25) filed by the Debtor on February 22, 2019:

1. Debtor is asking this Court to limit Creditor's witnesses to only those specifically named and timely disclosed based upon the fact that Creditor's Witness and Exhibit List (Doc. 23) filed on February 21, 2019 named "Expert Witness(es) to be determined".
2. The reason for listing "Expert Witness(es) to be determined" is precisely as stated: counsel for Creditor was still in the process of determining whom would be able to testify to the issues presented herein.
3. Upon determining whom would be able to testify to the issues presented herein, Creditor filed its Amended Witness and Exhibit List (Doc. 28) on February 25, 2019 and specifically named and provided contact information for its witnesses. The delay in amending the witness and exhibit list was due, at least in part, to one of the witnesses being located in another state. The filing of the Amended Witness and Exhibit List (Doc. 28) on February 25, 2019 was done promptly once the identity and contact information was known (see Local Rule 7016-1) and still provides

Debtor's counsel a minimum of two weeks to prepare for these witnesses.

4. Local Rule 9014-1, as cited by Debtor's counsel, states in relevant part that "[u]pon review of this notice (the witness an exhibit list), the Court may schedule a pre-hearing conference and direct any rules governing adversary proceedings to be applied to the matter. ... Failure to comply with this Rule may (emphasis added) result in exclusion of the evidence or such other sanction as the Court deems appropriate in the circumstances."
5. Further, Fed.R.Civ.P. 37(c)(1), made applicable by Fed.R.Bankr.P. 7037 and 9014, again as cited by Debtor's counsel, applies to situations where a party fails to provide information or identify a witness. Creditor has provided contact information and identified the witnesses in its Amended Witness and Exhibit List (Doc. 28).
6. Creditor asserts that the names and contact information of the witnesses were disclosed as soon as available; therefore, the failure to specifically name the witnesses in the Preliminary Witness and Exhibit List (Doc. 23) was substantially justified and harmless.
7. As the word "may" indicates above, exclusion is not mandatory, especially in light of the facts recited above.
8. Further, as indicated above, the Court may schedule a pre-hearing conference. Creditor suggests that a pre-hearing conference is appropriate in this instance in light of the contested nature of this matter and the issues presented along with the dispute over witnesses and evidence.

WHEREFORE, PREMISES CONSIDERED, QUICKEN LOANS INC. prays this Court deny the Motion in Limine and allow Creditor's witnesses as listed in its Amended Witness and Exhibit List, determine that a pre-hearing conference is appropriate and set a date and time certain for such pre-hearing conference; and for such further relief as this Court deems appropriate.

QUICKEN LOANS INC.

By: s/ Matthew J. Hudspeth
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CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the above and foregoing Response with postage thereon fully prepaid to the parties listed below on February 27, 2019.

Judith Darlene Snow
1713 Hampton Dr.
Oklahoma City, OK 73115

The following persons should have received notice of the above and foregoing instrument on the same day it was filed by the Court's CM/ECF Electronic Noticing System.

John T. Hardeman
P.O. Box 1948
Oklahoma City, OK 73101

Jason A. Sansone
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Del City, OK 73115

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